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) In the Matter Of  
)  
) Restoring Internet Freedom  
) WC Docket No. 17-108  
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**Written Ex Parte of the Benton Foundation**

On April 27, 2017, the Federal Communications Commission released a public draft of a Notice of Proposed Rulemaking (NPRM) concerning a free and open Internet. The Benton Foundation offers the following for the newly-opened WC Docket No. 17-108.

Susan Crawford, the John A. Reilly Clinical Professor at Harvard Law School, recently published the attached article, ***Ajit Pai Is Siding With the Oligarchy—and Misleading Trump's Base***, raising concerns about how the Commission's proposed, new approach to preserving and protecting an Open Internet could impact broadband subscribers in small, rural towns.

As the Commission considers reclassifying broadband Internet access service and the 2015 Open Internet rules, the circumstances of rural America must be considered.

Sincerely,

\_\_\_\_\_/s/

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Apr 27 · 5 min read

# Ajit Pai Is Siding With the Oligarchy—and Misleading Trump's Base

The FCC chair's plan to roll back net neutrality will wreak havoc on anyone living in the wrong zip code.





**If you happen to be sitting** in one of the rich zip codes of America—the ones that the institutional investors behind AT&T, Verizon, Comcast, Spectrum, and CenturyLink have decided are worth servicing—the idea that the fight for high-capacity internet access is an epic battle for the soul of democracy may seem somewhat fanciful. (Even in those wealthy areas, you should know that you're paying far too much for terrible service; you'd need to visit Asia or Northern Europe to get that idea in a visceral way.)

But if you're in a small, rural town, the battle feels real. And if Ajit Pai, President Trump's FCC chairman, gets his way, the federal government will do nothing to protect you.

Yesterday, Pai unveiled a sweeping plan to roll back government oversight of internet access providers. In an entirely misleading speech, Pai trumpeted his desire to remove Obama-era "heavy-handed regulations" that had been placed "upon the internet" by labeling high-speed internet access a "Title II" service.

I can go through all the ways in which Pai's fanfare of dog-whistle blasts is completely inaccurate as a matter of both law and reality. ("The internet is the greatest free-market success story in history!" "Regulation has led to a decrease in investment!") But I won't reach anyone who doesn't already agree with me. And I won't persuade Pai, who seems determined to be a free-marketeer politician, poised to run for the governor of something, someday.

So the only thing I can think to do that might make a difference is to tell you what

happens in those small towns and poorer areas— the places Pai claims have been harmed by Title II—when no one in the federal government is brave enough to say that high-speed internet access should be subject to genuine government oversight and strong industrial policy, aimed at constraining and channeling the otherwise overwhelming power of private companies.

You see, Pai wants to characterize this battle as one between “the people” (who love the internet) and “the government” (which, in his view, has been bossing “the people” around). But he’s missing a giant piece of the puzzle.

There are actually three players on the battlefield, not two: the people, the government, and particularly powerful private individuals.

You don’t want government to be too powerful: That way lies radical collectivism, as in Cuba, and the destruction of opportunity for individuals. Nor do you want well-funded, privileged autocrats—for the purposes of this particular battlefield, the few giant companies who control the transmission of data from point A to point B—to be too powerful, either. Because that way lies radical libertarianism, the kind of thinking popularized by Ayn Rand, that leaves oligarchs doing well and everyone else in misery.

The whole idea behind the democratic enterprise is to keep the triangle balanced: not too strong a government, not too powerful a group of oligarchs, and plenty of opportunity for individuals. Pai is putting his thumb decidedly on the scale in favor of the oligarchs, and it’s a risky move.

The FCC Is Leading Us Toward Catastrophe

Chairman Pai is trusting cable and telcos to do the right thing. Bad news for anyone who wants accessible internet. [backchannel.com](http://backchannel.com)



Recently, I went to four small towns in different parts of the country: Petersham and Otis in Massachusetts; the RS Fiber territory in rural Minnesota; and Grass Valley/Nevada City in California. While there, I heard the same story again and again: Households are stuck—at best—with awful DSL service over old copper wires, which means a handful of megabits of data per second. If they're too far from the telephone company's "central office," they can't even get that; electronic signals over copper don't go very far without being boosted, and the companies don't want to make that investment. That means they're left relying on a cellular or satellite connection for data—an expensive proposition.

One beleaguered father of three teenagers told me he'd gotten a \$750 bill for a month of usage. He's hoping the "unlimited data" plans that the companies have recently introduced will help; he's worried, though, about all the data throttling that may kick in once his kids get through the first half of the month.

But that's not the truly awful part. The worst part is that when the homeowner sells his or her property, or subdivides the land, the phone company immediately cuts off that DSL service. That means the new buyer is left relying on a cellular or satellite connection for data. For the unaware new buyer, it's as if they bought a house that they thought had water or electricity and now—suddenly—it doesn't.

Homeowners are pulling all kinds of shenanigans to avoid saddling their buyer with a no-high-speed-access (and hence much-lower-value) home: They'll get on the phone with both the buyer and the phone company to plead for special treatment. Or they'll simply stay on their buyer's bill, in perpetuity, hiding from the phone company the fact that they've sold their house.

Why is this happening? Because it can. Because the companies concerned, including AT&T and Verizon, are responsible only to their shareholders and feel the need to save capital expense (and keep dividends and buybacks as high as possible) by abandoning their wires whenever they can. They feel no obligation to maintain their wired networks, much less upgrade them to fiber optic lines.

If pressed, the companies will say that “wireless is the answer.” But it isn’t a full substitute today, and any “5G” wireless, whatever that ends up being, will require fiber everywhere in order to provide adequate capacity tomorrow, as I’ve written here before. (And no one at the companies is suggesting that rural/small town America will get 5G; that’s just for big cities.) Some towns are now going it alone, finding ways to put together the coalitions, leadership, financing, and network connections necessary to allow a fiber utility to reach everyone.

But people who don’t live in those few brave places building fiber often feel wronged. And they’re right. It just feels wrong. It feels un-American to them to be relegated to second-class status, no matter who they voted for last November. And they won’t see any help coming from Pai’s FCC.

Watch him: He’ll be saying wireless is the answer for small-town and poorer America, because that’s what fits in telecom companies’ business plans. We’re out of balance.



Thanks to Alexis Sobel Fitts.



**Susan Crawford**

Contributor to @backchnnl;  
prof @Harvard\_Law; books  
(#TheResponsiveCity,  
#CaptiveAudience); all  
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